COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 26, 2000

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION CASE NO. PUE980812

Ex Parte: In the matter of
establishing interim rules for
retail access pilot programs

FINAL ORDER

On March 20, 1998, the State Corporation Commission ("Commission") entered an Order establishing an investigation requiring various parties to perform activities and provide information to assist the Commission in moving forward in the evolving world of electric utility restructuring.[1] Among other things, this Order required Virginia Electric and Power Company ("Virginia Power") and American Electric Power – Virginia ("AEP-VA") each to begin work toward implementing at least one retail access pilot program. On November 2, 1998, Virginia Power and AEP-VA filed pilot programs in Case No. PUE980138.[2]

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[1] This Order and other related documents may be found in Commonwealth of Virginia ex. rel. State Corporation Commission, Ex Parte: In the matter of requiring reports and actions related to independent system operators, regional power exchanges and retail access pilot programs, Case No. PUE980138.

[2] Separate dockets have been created for consideration of these programs. The docket for consideration of Virginia Power's Pilot Program is Commonwealth of Virginia At the relation of the State Corporation Commission, Ex parte: In

Pilot programs also have been established within Columbia Gas of Virginia, Inc.'s ("CGVA") and Washington Gas Light Company's ("WGL") service territories.[3] Upon approving the pilot program for CGVA, the Commission determined that a task force should be convened to develop a generic code of conduct applicable to natural gas retail unbundling programs. The Commission Staff subsequently filed a motion expressing a similar need for a code of conduct to govern retail access pilot programs for electric utilities and stating that there would be

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the matter of considering an electricity retail access pilot program – Virginia Electric and Power Company, Case No. PUE980813. A Final Order in this case was issued April 28, 2000, Document Control No. 000440141. The docket for consideration of AEP-VA's pilot program is Commonwealth of Virginia At the relation of the State Corporation Commission, Ex Parte: In the matter of considering an electricity retail access pilot program – American Electric Power – Virginia, Case No. PUE980814. This case is awaiting a final Commission decision.

[3] Order Approving Commonwealth Choice Program, Phase I, Application of Commonwealth Gas Services, Inc. For general increase in natural gas rates and approval of performance-based regulation methodology pursuant to Va. Code § 56-235.6, Case No. PUE970455, 1997 S.C.C. Ann. Rep. 417, *modified,* Final Order, Application of Columbia Gas of Virginia, Inc. (Formerly Commonwealth Gas Services, Inc.) For general increase in natural gas rates and approval of performance-based rate regulation methodology pursuant to § 56-235.6 of the Code of Virginia, issued February 19, 1999, in Case No. PUE970455, Document Control No. 990220274 and Order Granting Application, Application of Columbia Gas of Virginia, Inc., Application to Extend Customer Choice, issued August 24, 1999, in Case No. PUE990245, Document Control No. 990830025; Final Order, Application of Washington Gas Light Company For approval of a Pilot Delivery Service Program, Case No. PUE971024, 1998 S.C.C. Ann. Rep. 390, *modified*, Order Granting Approval for an Amendment to Pilot Delivery Service Program, Application of Washington Gas Light Company For an amendment to Pilot Service Program, Case No. PUE980631, 1998 S.C.C. Ann. Rep. 429, and Order Granting Motion for Further Amendment to Pilot Delivery Service Program, Application of Washington Gas Light Company For a further amendment to Pilot Delivery Service Program, Case No. PUE980895, 1998 S.C.C. Ann. Rep. 434.

advantages in developing codes of conduct for the electric and natural gas utilities concurrently.

On December 3, 1998, the Commission established this docket to consider the adoption of interim rules to govern issues common to both natural gas and electricity retail access pilot programs including certification, codes of conduct, and standards of conduct governing relationships among entities participating in such programs. The Order Establishing Procedural Schedule directed the Commission Staff to select and lead a task force to consider and propose such rules by March 9, 1999, and established dates for the filing of comments and an evidentiary hearing in this matter.

On March 9, 1999, the Task Force filed its report in this matter and, after comments and rebuttal comments were filed, an evidentiary hearing was conducted by Chief Hearing Examiner Deborah V. Ellenberg. On August 6, 1999, the Chief Hearing Examiner issued her Report recommending that the Commission, by and large, adopt the Task Force's proposed rules with certain limited modifications and clarifications.[4] Comments to the Chief Hearing Examiner's Report were filed on or before August 27, 1999.

[4] Report of Deborah V. Ellenberg, Chief Hearing Examiner, filed August 6, 1999, Document Control Number 990810232(hereinafter "Chief Hearing Examiner's Report").

On February 10, 2000, the Commission issued an Order Inviting Comments on Retail Access Pilot Program Rules. With this Order the Commission published a revised set of rules designed to address specific substantive issues and to add detail to many of the rules recommended by the Chief Hearing Examiner, including the addition of a "definitions" section and a section specifically setting forth rules applicable to aggregators. Comments to these revised rules were filed on or before February 24, 2000.

Meanwhile, the Staff held various informal discussions with parties regarding their concerns with the February 10, 2000, proposed rules. On April 12, 2000, the Staff filed a Motion for the Filing of Proposed Revised Interim Retail Access Pilot Program Rules. These rules, dated March 29, 2000, were based upon the Commission's February 10, 2000, rules but included changes designed to address parties' concerns with the February 10 rules. The Staff's proposed rules were accepted for filing, and parties were once again given an opportunity to comment on the proposed retail access pilot program rules.

On or about April 27, 2000, comments were filed by the following parties: AARP Virginia State Legislative Committee; WGL; Virginia Citizens Consumer Council ("VCCC"); Division of Consumer Counsel, Office of the Attorney General; Virginia

Power; the Virginia Electric Cooperatives[5]; the Potomac Edison Company, d/b/a/ Allegheny Power ("Allegheny Power"); Old Mill Power Company; CGVA; Washington Gas Energy Services ("WGES"); Roanoke Gas Company; Diversified Energy Company; and AEP-VA. No party requested oral argument.

NOW UPON CONSIDERATION, we find that we should adopt the attached rules applicable to retail access pilot programs in the electric and natural gas industries effective as of the date of this Order. A complete set of these rules is Attachment A to this Order. We appreciate the comments of all the parties in this proceeding and have carefully considered them in crafting this final version of the pilot program rules.

We recognize that these rules are limited to pilot programs of limited scope and duration and may require alteration in the future to accommodate full scale retail choice and competition. For example, these rules require a local distribution company ("LDC") and its affiliated competitive service provider ("ACSP") to implement only internal controls to ensure that the LDC and its employees engaged in selected operations do not provide

[5] The Virginia Electric Cooperatives is a group consisting of A&N Electric Cooperative; BARC Electric Cooperative; Community Electric Cooperative; Craig-Botetourt Electric Cooperative; Mecklenburg Electric Cooperative; Northern Neck Electric Cooperative, Inc.; Northern Virginia Electric Cooperative; Powell Valley Electric Cooperative; Prince George Electric Cooperative; Rappahannock Electric Cooperative; Shenandoah Valley Electric Cooperative and Southside Electric Cooperative, Inc.; Old Dominion Electric Cooperative; and the Virginia, Maryland & Delaware Association of Electric Cooperatives.

information to an ACSP which would give the ACSP an undue advantage over a non-affiliated competitive service provider ("CSP"). A rule requiring separate facilities might be cost-prohibitive and burdensome for the limited duration of pilot programs. When full retail choice is implemented for all Virginians, however, it may be necessary to revisit this provision and require LDCs and ACSPs to have completely separate facilities and offices to ensure that there is no communication that would provide the ACSP an undue market advantage. As full competition develops over the next several years, this and other rules may need to be revised to ensure a level playing field for participants in the full scale retail choice market.

These rules apply to all retail access pilot programs the Commission has approved or will approve in the future, and these rules will be effective until the end of these pilot programs or as prescribed by further Commission order. As noted above, we will review and revise these rules as needed for the start and continuation of full retail choice.

While it is not necessary to review each rule in detail, we will discuss several of the rules that have been the subject of confusion or repeated debate and comment. These rules relate to: the applicability of the rules to affiliated CSPs; the pricing of affiliate transactions; internal controls governing interaction between LDCs and ACSPs; the information that must be

contained in solicitation materials and customer contracts; the ten-day period during which customers may cancel their competitive supply contracts; the contract renewal provisions; the allocation of partial payments by customers; and the use of CSP security deposits by an LDC. First, however, we offer the following general comments applicable to the entire set of rules.

We have revised some of the rules to delete language referring to the Commission's ability to take corrective action as necessary against a company. The Commission's power to take such actions is embodied in current law. This language was removed in the interest of brevity and does not imply that the Commission cannot or will not take such action.

In some sections of the rules, an LDC or CSP is required to take certain action within a specified time limit. Since these are pilot rules, however, we have modified the time requirements to state that many actions will "normally" be taken within the prescribed period. For example, Rule 30 A 6[6] requires that, in the event an LDC is notified by a CSP that the CSP will terminate a customer's service, the LDC shall, "normally" within two business days, respond to the CSP with an acknowledgement.

[6] For ease of reference, the designation "20 VAC 5-311-" will be dropped. The reader should presume this is the title and chapter for all the rules discussed in this Order unless specifically stated otherwise. For example, where the Order refers to "Rule 30 A 6," it should be understood that this refers to 20 VAC 5-311-30 A 6.

We direct LDCs and CSPs to keep records throughout the duration of the pilot programs reflecting the actual lengths of time required to accomplish these actions. It is imperative that these records be maintained so that we can be informed of how much time to provide for such actions upon the start of full scale retail choice.

These rules also specify certain reporting requirements for an LDC whose ACSP is participating in that LDC's pilot program. Some parties expressed concern that such reports would be duplicative of information the Commission already receives annually.[7] Because the pilot programs are laboratories for choice and competition, we believe that requiring such information every six months during the pilot programs is not overly burdensome and will provide the Staff and others with the information necessary to evaluate the effectiveness of these rules and retail choice in general. In its filings the LDC is free to refer to previously filed information and need not supply duplicate copies of data that have not changed since they were previously filed.

Finally, we note that information required to be filed pursuant to these rules, including but not limited to the above-

[7] See, *e.g.,* Comments of Washington Gas Light Company on Proposed Retail Access Pilot Program Rules, filed April 27, 2000, Document Control No. 000440081, at 6-7; Comments of Columbia Gas of Virginia, Inc., in Response to the Staff's Proposed Revised Interim Retail Access Pilot Rules, filed April 27, 2000, Document Control No. 000440117, at 3-5.

mentioned reports and applications for licensure, are matters of public record unless otherwise directed by the Commission. Any member of the public may obtain and review such information by visiting the Clerk's Office.

With these general considerations in mind, we now turn to specific issues raised by the comments.

Applicability of the rules to affiliated CSPs

Comments to the previously proposed rules have expressed uncertainty regarding who is subject to the rules governing ACSPs.[8] Therefore, we offer the following. If a CSP is an affiliate of a distribution company that has no service territory in Virginia, then the CSP is not considered an ACSP for purposes of these rules and need not make any filings regarding affiliate transactions or otherwise comply with the rules specifically applicable to ACSPs. The definition of "Local Distribution Company" is "an entity regulated by the State Corporation Commission . . . ." Similarly, an "[a]ffiliated competitive service provider" is defined as "a separate legal entity that controls, is controlled by, or is under common control of, a local distribution company or its parent."[9] Thus, the rules do not require that a CSP affiliated

[8] Comments of Allegheny Power on Proposed Regulations in Response to April 13, 2000, Order, filed April 28, 2000, Document Control No. 000440136, at 4.

[9] Rule 10 B.

with a distribution company that has no service territory in Virginia comply with the rules designed to regulate ACSPs.

Further, not all rules apply to all ACSPs. Specifically, Rules 20 B 6 and 30 A 9 do not apply to LDCs and ACSPs where the ACSP is not participating in the pilot program of its affiliated LDC.

Affiliate costs

One of the main issues involving ACSPs was the regulation of affiliate transactions as specified in Rule 30 A 10. This rule provides that an LDC shall be compensated at the greater of fully distributed cost or market price for all non-tariffed services, facilities, and products provided to an ACSP and that an LDC shall pay the lower of fully distributed cost or market price for all non-tariffed services, facilities, and products received from the ACSP.

We received comments expressing concern with this rule.[10] However, it is not new. It reflects our established policy that was detailed in our August 7, 1997, Order in Application of GTE

[10] See, *e.g.*, Comments of AEP-VA Responding to the Commission's Order of April 13, 2000, filed April 27, 2000, Document Control No. 000440122, at 5-7; Comments of Columbia Gas of Virginia, Inc., in Response to the Staff's Proposed Revised Interim Retail Access Pilot Rules, filed April 27, 2000, Document Control No. 000440117, at 3-5; Joint Comments of Roanoke Gas Company and Diversified Energy Company to Order Inviting Comments on Proposed Revised Interim Retail Access Pilot Program Rules, filed April 27, 2000, Document Control No. 000440082, at 2-3.

South, Case No. PUC950019,[11] which has been upheld by the Virginia Supreme Court.[12] Additionally, the policy recommendation of the National Association of Regulatory Utility Commissioners supports this approach.[13]

AEP-VA asserts that this policy might discourage ACSPs from participating in pilot programs because such affiliates that are affiliates of a registered holding company must price affiliate arrangements according to certain federal regulations.[14] It is, however, not unusual for affiliates of registered holding companies to price transactions on bases similar to that required in Virginia. We do not believe the rule will discourage participation in pilot programs.

Internal controls

Rule 50 A 7 requires that an ACSP, as part of its license application, provide a description of internal controls it has designed to ensure that the ACSP and its employees engaged in selected operations do not provide information to an affiliated

[11] Order, Application of GTE South Incorporated For revisions to its local exchange, access and intraLATA long distance rates, Case No. PUC950019, 1997 S.C.C. Ann. Rep. 216, 218.

[12] GTE South, Inc. v. AT&T Communications of Virginia, Inc., No. 991964, 2000 WL 257121 at *3 (Sup. Ct. Va. March 3, 2000).

[13] *Attachment to Resolution Regarding Cost Allocation Guidelines for the Energy Industry, "Guidelines for Cost Allocations and Affiliate Transactions,"* NARUC Summer Committee Meetings, Resolutions, § D (July 18-21, 1999) http://www.naruc.org/Resolutions/summer99.htm.

[14] See Comments of AEP-VA Responding to the Commission's Order of April 13, 2000, filed April 27, 2000, Document Control No. 000440122, at 6.

LDC (or to entities that provide similar functions for or on behalf of that LDC or any affiliated transmission provider) as would give the ACSP an undue advantage over a non-affiliated CSP. In our final version of the rules, we have amended Rules 20 B 6 and 30 A 9 to mirror Rule 50 A 7. Rule 20 B 6 explicitly requires ACSPs to implement the controls the ACSP must provide as part of its application and now reflects the deadline by which any revised listing and description of internal controls must be filed. Rule 30 A 9 has been similarly amended.

As was true with the affiliate cost rules, there were also comments expressing concern with the rules governing the internal controls between LDCs and ACSPs.[15] For example, AEP-VA asserts that these rules would deny ACSPs the economies of scope and scale provided by using the LDC's service company for accounting, billing, and other services not directly related to the provision of electricity or natural gas.[16] However, we

[15] See, *e.g.*, Comments of AEP-VA Responding to the Commission's Order of April 13, 2000, filed April 27, 2000, Document Control No. 000440122, at 7-9; Comments of Virginia Electric and Power Company on Retail Access Pilot Program Rules, filed April 27, 2000, Document Control No. 000440123, at 3-6; Comments of Washington Gas Energy Services on Proposed Revised Interim Retail Access Pilot Program Rules, filed April 27, 2000, Document Control No. 000440120, at 13-14.

[16] Comments of AEP-VA Responding to the Commission's Order of April 13, 2000, filed April 27, 2000, Document Control No. 000440122, at 8-9.

believe that such economies of scope and scale may still be enjoyed by CSPs and LDCs even while complying with these rules.

Solicitation, marketing, and contract information provided to customers

Rules 20 A 1 and 20 A 2 have been revised in several ways. Rule 20 A 1 now includes language requiring that solicitations, advertising, and marketing materials contain a clear and conspicuous notice of a toll-free telephone number to call to obtain additional information before signing a contract or making a purchasing decision. The information that must be provided is listed in Rule 20 A 2.

Whether or not the customer has requested such information previously, a CSP must send such information to the customer, in writing or electronically, by the time the written contract is provided to the customer.[17] Rule 20 A 2 also requires that the information provided to the customer include a notice of the customer's right to cancel the contract, including specifications regarding the size of type and contents of such a notice. This notice provision is similar to § 59.1-21.4 of the Code of Virginia, which sets forth a consumer's right to cancel a purchase made through home solicitation.

[17] Note that the customer may already have agreed to be served by a CSP before receiving a written document embodying the contract terms and the information required to be provided by Rule 20 A 2. In such a case, the written contract and additional information would provide a customer with the information necessary to decide whether to rescind the contract.

Rule 20 A 4 published in our February 10, 2000, Order, has been deleted. The provisions originally contained in Rule 20 A 4 have largely been incorporated within Rule 20 A 3 b. Thus, our rules still require the customer to receive a written contract that is either hand-delivered, mailed, or electronically transmitted. Rule 20 A 3 c now explicitly states that such contracts shall be considered void *ab initio* if enrollment is cancelled by the customer according to the procedures set forth in the rules.

These changes have been made to address concerns raised by the VCCC that the rules should expressly require that sellers notify customers of their right to cancel their contracts without penalty, of the time when this right expires, and of the procedures for exercising this right.[18] We also are not unmindful of the VCCC's concern that customers may be entering into these transactions without first reading their contracts.[19] Our rules currently permit the customer to agree to purchase electricity from a CSP and to receive a contract subsequent to that agreement. This procedure places the burden upon the customer to act affirmatively to rescind the contract if, after receiving and reading it, the customer does not wish to accept

[18] Comments on Proposed Revised Interim Retail Access Pilot Program Rules, Virginia Citizens Consumer Council, filed April 27, 2000, Document Control No. 000440084, at 3.

[19] Id. at 2-3.

the contract's provisions. We are hesitant to adopt this strategy but will do so for the pilot programs in an attempt to determine whether this is the proper middle ground between consumer protection and allowing CSPs needed flexibility to operate in the new competitive market. As stated earlier, we may revise such rules with the start of full scale retail choice.

We also note that we have amended Rules 20 A 3 c and 30 B 4 to allow a customer to notify either the LDC or the CSP to cancel a contract. The entity notified of the cancellation request has normally one business day to notify the other entity of the customer's request to halt the enrollment process.

Rescission period

The pilot program rules require that, after a customer agrees to enroll with a CSP, the CSP must send an enrollment request to the LDC. According to Rule 30 B 4, the LDC, normally within one business day after receiving the enrollment request, shall mail a notice to the customer advising the customer of the request, the approximate date that service from the CSP will commence, and the procedure for canceling the enrollment. A customer is allotted ten calendar days to cancel the contract and halt the enrollment process with the CSP. The ten-day period is calculated based upon the date the customer receives the notice of enrollment request from the LDC, which notice is

deemed to have been received by the customer three calendar days after the date of mailing.

We believe that a ten-day cancellation period is fair to customers who have never purchased electricity in the open market before and who will need time to review their contracts adequately.[20] We understand the concern of WGES about the potential effect of such a lengthy cancellation period in volatile energy markets.[21] We will monitor the use of the ten-day cancellation period throughout the pilot programs to determine if this period should be amended with the start of full scale retail access.

Contract length and renewal

Rule 20 A 11 allows a CSP to include provisions in its service contracts providing for automatic renewal during and beyond the duration of the pilot program to which that contract is applicable. Once the pilot program ends, the contract may continue, but it is subject to termination by either party upon thirty days' written notice to the other party. It is appropriate for the contract to be subject to cancellation on

[20] Rule 20 A 3 b requires a CSP to send, contemporaneously, the enrollment request to the LDC and the written contract to the customer. Thus, the customer should have the contract in hand upon receipt of notification of the enrollment request from the LDC.

[21] Comments of Washington Gas Energy Services on Proposed Revised Interim Retail Access Pilot Program Rules, filed April 27, 2000, Document Control No. 000440120, at 5-6.

short notice when the pilot program ends so that neither customers nor CSPs are bound by contracts for long periods after the end of the pilot period.

Partial payment allocation

Rule 60 E now states that a customer payment received in partial payment of a single consolidated bill shall be applied as designated by the customer. Absent customer designation, the payment will be applied to LDC arrearages, then to CSP arrearages, then to current LDC charges, then to current CSP charges. This method strikes a compromise position between allowing the LDC to be paid in full for both arrearages and current charges, before any CSP arrearages, and requiring all partial payments to be shared on a pro rata basis.[22]

Several parties expressed a desire earlier in these proceedings to have the LDC collect its full arrearages and current charges before the CSP received any payment from a customer.[23] This proposal was based at least in part on the assumption that, if a customer defaults with a CSP, that customer would simply revert to default service from the LDC,

[22] The Chief Hearing Examiner's Report recommended that partial payments from customers be allocated first to LDC charges that would result in disconnection and the balance, if any, to other LDC and CSP charges. See pp. 60-62. The Staff Comments Regarding Task Force Report, filed April 9, 1999, Document Control No. 990410286, argued for a provision requiring the LDC to apply partial payments on a prorated basis for monthly services provided by the CSP and the LDC. See p. 43.

[23] See, *e.g.*, tr. at 196-97, 210, 225-27.

which could not refuse to provide service to that customer. Thus, the LDC would be forced to take on a customer with a poor credit history. We find this argument invalid for these pilot programs because, if a customer returns to the LDC's generation service, the LDC may collect a security deposit from that customer to protect against the possibility that the generation portion of that customer's bill may become uncollectible by the LDC.[24] The collection of such security deposits must be made in accordance with the current rule governing all utility security deposits, 20 VAC 5-10-20, which states that the purpose of such deposits is to protect against uncollectible accounts and that the maximum amount of any deposit shall not exceed the equivalent of the customer's estimated liability for two months' usage. The security deposit should provide the LDC with adequate financial coverage.

In revising this rule, we have considered new provisions of the tax laws, effective January 1, 2001, which specify how the tax portion of a customer's utility bills will be collected if a customer refuses to pay such taxes.[25] We find it consistent with this legislation to allow customers to direct payment allocation

[24] Note that, for the pilot programs, Rule 30 B 6 requires the generation portion of any customer deposits the LDC currently holds to be promptly refunded when that customer elects to receive generation services from the competitive marketplace.

[25] See 2000 Va. Acts ch. 614 (to be codified at § 58.1-2901); 2000 Va. Acts ch. 691 (to be codified at § 58.1-2905).

preferences not only for taxes but also for other amounts owed in the pilot programs.

These statutes also state that, when a customer fails to pay the bill issued by the utility, including taxes, the utility shall follow normal collection procedures and, upon collection of any part of the money owed, shall apportion the net amount collected between the charge for utility service and taxes. These statutes mandate a pro rata sharing of any payment collected where the customer previously has failed to pay a utility bill. Similarly, we see no reason not to prorate a partial payment of a customer's bill in the pilot programs. However, because the attached rule specifying the method for distributing partial payments was not strongly opposed by any party, we will elect to use this method for the pilot programs. Once again, we may revisit this issue with the start of full scale retail choice.

Security Deposits from CSPs

Rule 30 A 12 makes provisions for an LDC, at its discretion, to require reasonable financial security from a CSP to safeguard the LDC and its customers from financial losses or costs incurred due to the non-performance of the CSP. The rule previously stated that the security deposit would be used to offset the cost of replacement energy supplied by the LDC in the event of a CSP's non-performance. This rule has now been

broadened to allow the amount of the financial security to be commensurate with the level of risk assumed by the LDC. The rule also allows the security deposit to be used to offset any losses or additional costs incurred due to the CSP's non-performance, including the LDC's cost to supply replacement energy.

This revised language enhances the internal consistency of the rule by allowing the LDC to utilize the financial security to offset any of the costs it incurs in the event of CSP non-performance, not just to offset the cost of replacement energy. We believe this rule strikes the best balance between keeping financial security deposits within reasonable limits and allowing an LDC to be made whole in the event of CSP non-performance.

Accordingly, IT IS ORDERED THAT:

(1) We hereby adopt the Interim Rules Governing Electric and Natural Gas Retail Access Pilot Programs, appended hereto as Attachment A.

(2) As specified in Rule 60 B, the natural gas retail access pilot programs previously approved by the State Corporation Commission and in operation prior to the adoption of these rules, as well as any competitive service provider or aggregator participating in such programs, shall be required to comply with these rules within 120 days from the date of this

order or from the date of denial of a waiver request filed under Rule 60 A, whichever is later.

(3) As discussed herein, LDCs and CSPs shall keep records reflecting the actual time in which they perform actions in all instances where the rules specify that an action shall occur "normally" within a certain number of days. All LDCs and CSPs shall file reports detailing which of these actions they have performed, the number of times each action has been performed within the number of days allotted by these rules, and the number of times each action has been performed within a time frame different than the time specified in the rules. For the latter category of actions, LDCs and CSPs also shall file the actual length of time they took to perform each action. The first such report shall be due on April 30, 2001, and shall include data regarding all actions occurring on or before March 31, 2001. Thereafter, each LDC and CSP shall file quarterly updates of this data until the pilot programs in which the LDC or CSP is participating have ended. This reporting requirement shall be in addition to any other reporting requirements already specified for individual pilot programs, and these reports shall be filed under the case number of the individual pilot programs in which the LDC or CSP is participating.

(4) There being nothing further to be done herein, this case is dismissed.